

## **BILL ANALYSIS**

C.S.H.B. 4386  
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Insurance  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

An annuity is a long-term agreement between a consumer and an insurance company that guarantees regular income payments to the consumer on a tax-deferred basis. The bill author has informed the committee that millions of Texans rely on annuities as a critical source of income in retirement and that annuities serve as a vital tool in retirement planning that enables consumers to convert accumulated savings into predictable, long-term income. The bill author has further informed the committee that a key benefit of an annuity is the owner's ability to transfer an annuity to a different insurer to secure better income terms and that delayed transfers can result in financial losses due to missed investment opportunities and fluctuating interest rates.

No standardized procedures exist under current law for processing the transfer and surrender of annuity contracts. C.S.H.B. 4386 seeks to enable consumers to plan such transactions with confidence by establishing a statutory framework that, among other provisions, sets a timeline for insurers to complete annuity transfer and surrender requests.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 4386 amends the Insurance Code to set out provisions relating to the exchange or surrender of an annuity contract.

#### **Processing of Annuity Contract Exchanges**

C.S.H.B. 4386 sets out procedures for the processing of an annuity contract exchange. For purposes of these procedures, "exchange" means an annuity replacement transaction:

- in which the money in an existing annuity contract must pass directly from the existing annuity contract and existing insurer to a new annuity contract and a replacing insurer; and
- in which the owner and annuitant of the new contract are the same as the owner and annuitant of the existing contract, regardless of whether the owner or annuitant may be changed after completion of the transaction.

If a transaction involves an exchange of an annuity contract, the existing and the replacing insurers must comply with the procedures established by the bill.

C.S.H.B. 4386 establishes that to initiate an exchange of an annuity contract, the replacing insurer must provide the existing insurer an exchange request notice on a form provided by the existing insurer. The bill requires an existing insurer to make an exchange request notice form available on the insurer's website or require a contract owner or replacing insurer to request from the insurer a physical copy of the form. The bill establishes that an exchange request notice form may include or require only the following elements:

- a statement that the contract owner has authorized the replacing insurer to initiate the exchange;
- the existing annuity contract number;
- the name, mailing address, e-mail address, and telephone number of the contract owner and annuitant;
- delivery instructions for the transfer of money;
- the ink or electronic signature of the contract owner; and
- any disclosure documents required by federal law relating to an exchange or replacement of an annuity.

C.S.H.B. 4386 requires an existing insurer that receives an exchange request notice from the contract owner and the replacing insurer to do the following:

- acknowledge receipt of the notice not later than the fifth business day after the date the existing insurer received the notice; and
- unless the existing annuity contract being exchanged has a provision that gives the existing insurer the right to defer payment for a different period, transfer the contract value of the existing annuity to the replacing insurer not later than the 30th business day after the date the existing insurer receives the notice.

However, if the exchange request notice form provided to the existing insurer does not include all required information, the applicable period to transfer the contract value does not begin until the day the existing insurer receives all required information from the replacing insurer or contract owner, as applicable. The bill requires an existing insurer that does not complete the transfer payment within the applicable period to pay penalty interest on the unpaid amount at an annual rate of 10 percent accruing from the first business day after the date the contract value was required to be transferred until the contract value is transferred to the replacing insurer in full.

C.S.H.B. 4386 establishes that nothing in its provisions regarding the processing of annuity contract exchanges is intended to do the following:

- change the suitability requirements applicable to an agent or insurer seeking to replace an annuity under statutory provisions relating to the suitability of certain annuity transactions; or
- prohibit a replacing insurer and existing insurer from agreeing to use different formats or modes for assisting contract owners in the timely and efficient processing of replacements or exchanges of annuity contracts.

### **Processing of Surrender Requests for Annuity Contracts**

C.S.H.B. 4386 requires an annuity contract owner to submit a surrender request on a form required by the insurer to initiate a surrender of the contract. The bill requires an insurer that issues an annuity contract to make a surrender request form available on the insurer's website or require the contract owner to request a physical copy of the form from the insurer. If a contract owner submits a written request for a physical copy of the form, the insurer must mail the form to the contract owner not later than the fifth business day after the date the insurer receives the request. The bill establishes that a surrender request form may include or require only the following elements:

- a statement that the contract owner intends to surrender the annuity contract;
- the annuity contract number;

- the name, mailing address, e-mail address, and telephone number of the contract owner;
- delivery instructions for the transfer of money;
- instructions for tax withholding;
- the ink or electronic signature of the contract owner; and
- any other document or disclosure required by federal or state law.

C.S.H.B. 4386 requires an insurer that receives a surrender request from a contract owner to do the following:

- acknowledge receipt of the request not later than the fifth business day after the date the insurer receives the request; and
- unless the contract being surrendered has a provision that gives the insurer the right to defer payment for a different period, transfer the current cash surrender value of the annuity contract to the contract owner not later than the 30th business day after the date the insurer receives the request.

However, if a surrender request form submitted to an insurer does not include all required information, the applicable period to transfer the cash surrender value does not begin until the day the insurer receives all required information from the contract owner. The bill requires an insurer that fails to complete payment of cash surrender value within the applicable period to pay penalty interest on the unpaid amount at an annual rate of 10 percent accruing from the first business day after the date the cash surrender value was required to be transferred until the cash surrender value is transferred to the contract owner in full.

C.S.H.B. 4386 establishes that nothing in its provisions regarding the processing of surrender requests for annuity contracts is intended to change the suitability requirements applicable to an agent or other person advising a contract owner to surrender an annuity under statutory provisions relating to the suitability of certain annuity transactions.

### **Transition Provision**

C.S.H.B. 4386 applies only to an exchange or surrender of an annuity contract initiated on or after January 1, 2026.

### **EFFECTIVE DATE**

September 1, 2025.

### **COMPARISON OF INTRODUCED AND SUBSTITUTE**

While C.S.H.B. 4386 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The introduced established deadlines for an insurer to take certain actions on receipt of notice of a replacement life insurance policy or annuity contract or notice of intent to surrender such a policy or contract and provided for the payment of interest by an insurer that does not comply with those deadlines. The substitute also provides for such deadlines and penalties but differs from the introduced in the following ways:

- whereas the introduced applied to both life insurance policies and annuity contracts, the substitute applies only to annuity contracts;
- whereas the introduced included its requirements in provisions of current law prescribing the duties of an existing insurer with respect to replacement transactions, the substitute sets out separate provisions for transactions involving an exchange and for contract surrenders;
- the substitute includes provisions absent from the introduced defining "exchange" as an annuity replacement transaction that meets certain criteria and requiring existing insurers

and replacing insurers to comply with the bill's exchange procedures if a transaction involves an exchange of an annuity contract;

- the substitute includes provisions absent from the introduced relating to exchange request notice forms and surrender request forms that do the following:
  - require a replacing insurer initiating an exchange of an annuity contract to provide the existing insurer an exchange request notice on a form provided by the existing insurer;
  - require a contract owner initiating a surrender of an annuity contract to submit a surrender request on a form required by the insurer;
  - provide for the manner in which the forms must be made available; and
  - prescribe the only elements that the forms may include or require;
- the substitute makes the following changes to the introduced version's requirements for an insurer to send a transfer or surrender payment within 30 business days of receiving applicable notice:
  - clarifies that the payment amount for a transfer is the contract value of the existing annuity and replaces the specification that the payment is sent to either the contract or policy owner or the replacing insurer with a specification that the contract value is transferred to the replacing insurer;
  - clarifies that the payment amount for an annuity contract being surrendered is the contract's current cash surrender value;
  - provides an exception to the deadline if the existing annuity contract being exchanged or the contract being surrendered has a provision that gives the existing insurer the right to defer payment for a different period; and
  - establishes that the applicable period does not begin until the day all required information is received; and
- the substitute reduces the annual rate of interest for amounts not paid within the applicable period from 18 percent, as in the introduced, to 10 percent.

The substitute includes provisions absent from the introduced that do the following:

- establish that nothing in the bill's provisions relating to the processing of annuity contract exchanges is intended to change certain suitability requirements applicable to an agent or insurer seeking to replace an annuity under certain statutory provisions or to prohibit a replacing insurer and existing insurer from agreeing to use different formats or modes for assisting contract owners in the timely and efficient processing of replacements or exchanges of annuity contracts; and
- establish that nothing in the bill's provisions relating to the processing of surrender requests for annuity contracts is intended to change the suitability requirements applicable to an agent or other person advising a contract owner to surrender an annuity under certain statutory provisions.